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SIPDIS

INL/AAE FOR ANDREW BUHLER

DEPT OF JUSTICE ASSET AND FORFEITURE UNIT FOR ROB STAPLETON

DEPT OF JUSTICE OPDAT FOR CATHERINE NEWCOMBE

TREASURY FOR ANNE WALLWORK AND FINCEN DAVID TEITELBAUM

ANKARA FOR DEA CHRIS MELINK

USOSCE FOR ELIZABETH KAUFMAN

AMEMBASSY HELSINKI PASS TO AMCONSUL ST PETERSBURG

AMEMBASSY MOSCOW PASS TO AMCONSUL VLADIVOSTOK

AMEMBASSY MOSCOW PASS TO AMCONSUL YEKATERINBURG

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SUBJECT: Uzbekistan Parliament Passes Law Reestablishing an Anti-Money Laundering Regime

REF: 07 TASHKENT 1922

CLASSIFIED BY: Timothy P Buckley, Second Secretary; REASON: 1.4(B), (D)

¶1. (C) Summary: A Department of Justice (DOJ) expert traveled to Tashkent March 30 - April 2 to provide technical assistance to Uzbekistan regarding its draft anti-money laundering and countering the finance of terrorism (AML/CTF) legislation. Surprisingly, the Uzbek Senate passed the legislation on March 28, thereby excluding any U.S. input into the final version of the law; however, Uzbek officials warmly received the visitor and expressed a willingness to incorporate U.S. recommendations into the formation of critical by-laws that will ultimately determine the effectiveness of the regime. A combined IMF, World Bank, and UNODC team did provide technical assistance for the new law and conducted separate follow up meetings during March 30 - April 2 as well. The law falls short of international standards in some aspects, but it does represent a step forward from a flawed earlier regime that had been suspended by Presidential Presidentialidential decree until 2013, for which Uzbekistan drew heavy criticism from the Financial Action Task Force (FATF). Despite an earlier understanding, the U.S. was clearly kept at arm's length during the process of drafting the legislation in favor of international organizations; however, an AML/CTF law has been put into place and there are still significant opportunities for continued U.S. engagement. End summary.

Senate Passes Revised AML/CTF Legislation...

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¶2. (U) On Saturday, March 28, the Uzbek Senate adopted a draft AML/CTF law, which we learned about from a television report on March 30. The Senate approval followed swiftly on the heels of the lower house (Oliy Majlis), which had approved the draft on March 26 with little fanfare. With parliamentary approval now complete, the law now goes to President Karimov, who is expected to sign within a

week, at which time the law will immediately be published and enter into force. Government officials emphasized the cascading effect of the new legislation, as portions of 15 other laws will now have to be amended to bring them into compliance with this law. This will be accomplished simultaneously through a subsequent piece of legislation which has already been drafted, according to officials at the Office of the General Prosecutor.

...But Without Accepting U.S. Technical Assistance

¶3. (C) While the international community has been consistently urging the reestablishment of a sound AML/CTF regime, the surprise effort to push draft legislation through the parliament within a span of just three days effectively undermined a long-planned effort to provide U.S. technical assistance on the content of the draft law. The Uzbeks agreed and appeared to welcome the U.S. offer in November 2008 but then resisted our repeated efforts to obtain an advance copy of the draft law to enable experts at the Department of Justice to prepare comments and feedback. Numerous excuses were proffered and by the time we ultimately received a copy of the draft in early February, 2009, it had apparently already been submitted to the Cabinet of Ministers and immediately thereafter to the parliament. We did not know at the time this meant the door was closed to incorporating U.S. technical assistance into the draft and we duly proceeded with other logistical details and arranged meetings for a visiting expert from the U.S. Department of Justice Asset Forfeiture and Money Laundering Section. (Note: One reason for the last-minute rush to

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enact the legislation may have been that UNODC and the Government of Uzbekistan were co-hosting a fairly high-profile workshop on implementing the UN Convention Against Corruption and Uzbek authorities felt under pressure to show President Karimov that the Government of Uzbekistan was taking measures to counter corruption. Septel. End note.)

At Least there is an AML/CTF Law in Place...

¶4. (C) The new law will amend an ill-fated earlier law which was adopted in 2004 and came briefly into force in 2006 until its main provisions were suspended by a Presidential decree in 2007 (reftel). This attracted the attention of international entities, including FATF and the Eurasia Group (EAG), and prompted the former to issue advisories and consider countermeasures against Uzbekistan. This legislation means that Uzbekistan will once again have a functioning AML/CTF law in place for the first time in nearly two years, which the Government of Uzbekistan was clearly motivated to accomplish before the next FATF plenary meeting in June.

...But it Falls Short of Some International Standards

¶5. (C) The visiting DOJ expert and poloff met with officials from the Office of the General Prosecutor on March 31, which is home to the Financial Intelligence Unit (FIU) and is the lead ministry in anti-money laundering affairs. Alimjan Tadjibayev, the Deputy Head of the FIU, presented an updated copy of the draft legislation, which reflected changes made by the Cabinet of Ministers and the parliament. The DOJ expert then reviewed and compared the versions and was able to raise concerns at subsequent meetings on April 1 - 2 with the Office of the General Prosecutor, the Central Bank of Uzbekistan, and representatives of the anti-money laundering working group. (Note: An English translation of the final version of the draft law will be forwarded to SCA/CEN, DOJ, and Treasury. End note.)

¶6. (C) The DOJ expert informed his Uzbek interlocutors that there were several areas in which the new law seems to fall short of commonly accepted international standards. In particular, the law seems to lack proper definitions for such important terms as money

laundering, property, proceeds of crime, possession, and direct/indirect sources of income. He noted that such definitions are readily available from open sources such as the Vienna Convention, the Palermo Convention, and FATF's 40 plus 9 recommendations. Another key shortcoming is that it does not address politically exposed persons, a concept which the Uzbek officials -- even the Deputy Chair of the Central Bank, Alisher Akmalov -- seemed not to be aware of or understand despite it being one of the FATF recommendations. The DOJ expert also told Uzbek officials that provisions on confiscation are insufficient in scope and not appropriately applied. The law's section on international cooperation is weak, and it does not clearly explain how Uzbekistan would or would not help international partners in different circumstances.

¶7. (C) While the Uzbek representatives made it clear from the outset that it was too late to influence the current draft law before it was signed, they very warmly received the DOJ visitor and welcomed the frank discussions. The head of the Fund for Reconstruction and Development of Uzbekistan, Rustam Gulyamov, who

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chairs the working group, noted on April 2 that "we cannot meet all 40 plus 9 recommendations at once." Tadjibayev stated that creating an AML/CTF regime "is an ongoing process."

New Law Took Several Steps in the Right Direction

¶8. (C) Over the course of three consecutive days of engagement, the DOJ expert identified several areas in which the new law represents a step forward from previous legislation. Giuseppe Lombardo and Klaudio Stroligo, who comprised the combined IMF/World Bank/UNODC technical assistance team, reported that the Uzbek working group accepted 18 of the recommendations they made during their January visit. Of these, they noted that 11 were accepted by the Cabinet of Ministers and parliament and incorporated into the draft law, which Tadjibayev confirmed to poloff on April 2. Most significantly, the provisions on customer due diligence were improved and the two-day automatic suspension of a suspicious transaction -- which acted as a tip-off to the party attempting to process the transaction -- was lifted, which benefits law enforcement investigators and legitimate commerce alike. Internal control mechanisms are also beefed up compared to earlier legislation. An unrealistic reporting threshold based on multiples of the low official monthly wage was eliminated, but the DOJ expert advised the Uzbeks to establish a mandatory reporting threshold in addition to allowing banks to report a suspicious transaction in any amount.

By-Laws Will be Critical in Effective Implementation

¶9. (C) The DOJ expert lamented that there appears to be too much emphasis and reliance on subsequent by-laws and regulations to properly implement the law's provisions, whereas it would have been better to incorporate more into the main legislation itself. Lombardo and Stroligo shared this regret but noted that this is simply the way Uzbekistan does business. Tadjibayev defended this by noting "it takes six or eight months to get anything through our legislative process" and suggested it is better to develop by-laws separately, but the DOJ expert commented that such an environment underscores the importance of getting a proper legal framework into the legislation from the start.

¶10. (C) Nonetheless, the Uzbek interlocutors noted feedback from the U.S. would be reflected in the crucial by-laws, which are already being developed. Akmalov reported that the Central Bank will finalize its regulations within the next two weeks. Lombardo told poloff on April 2 that he met with First Deputy Prime Minister Rustam Azimov -- who sent a letter to FATF in late 2008 promising effective action within 180 days -- and that Azimov assured him the by-laws would be developed "within eight weeks." (Note: This would be just in time for the FATF plenary session, suggesting that

Uzbekistan knows the law without the subsequent by-laws may not win over enough critics in the FATF plenary meeting. End note.) Tadjibayev assured poloff on April 2 that "none of the by-laws will be kept secret." In a lunch on April 2, Akmalov delivered remarks that summarized steps forward and made a pitch for U.S. support during upcoming FATF meetings based on the progress.

International Organizations to Continue Assistance

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¶11. (C) Lombardo and Stoligo were also unaware that the legislation would be in place by the time they arrived in Tashkent on March 30, as was the World Bank Country Representative Loup Brefort, who said of the technical assistance process that "you can lead a horse to water, but you cannot make it drink." Lombardo and Stoligo were also nonplussed that Uzbekistan did not accept all of the recommendations they brought to the table in January during their first technical assistance mission, focusing instead on the positive steps made and accepting the Uzbek arguments that existing frameworks make some recommendations difficult. For instance, Stoligo said he would typically push harder for the FIU to be completely independent, but he said "frankly, the Office of the General Prosecutor has better people and if the FIU was moved away it would suffer."

¶12. (C) Lombardo and Stoligo noted that, in addition to technical assistance already rendered under the auspices of IMF/World Bank/UNODC, these organizations will provide drafting assistance for the series of by-laws as well as general implementation guidance over the course of the next year. Events will include an FIU conference, which is planned for May. Killian Strauss, a Senior Program Officer at the OSCE who also visited Tashkent last week, added that the OSCE is also planning an AML/CTF project through its Tashkent Project Coordination Office.

Opportunities for Further U.S. Engagement

¶13. (C) The members of the Uzbek AML/CTF working group expressed a desire to continue cooperation with the U.S. on these issues. They gradually opened up during meetings and began asking general questions of the DOJ expert about how FINCEN works, how American prosecutors approach investigations, and what policies such as bank confidentiality limit their powers. Discussions spilled over into lunches attended by Akmalov, FIU Chief Zokhid Dusanov, and the Deputy Head of the International Relations Department, among others. They specifically asked for a set of indicators for suspicious activity reports to help them establish practical guidelines that do not cripple business activities. Tadjibayev noted that the help from the international organizations is appreciated, "but the USA is very advanced and sets the pace on these matters and we want direct discussions." Several key members of the anti-money laundering working group have never visited the United States and hope to participate in a study tour as part of future engagement efforts. They reported that besides a 2007 visit to France, no other nations have come forward to offer bilateral assistance on the AML/CTF front. "It is now a blank slate," Gulyamov said during the April 2 meeting with the working group.

¶14. (C) The Office of the General Prosecutor's International Department seemed willing to share the draft law as promised in early January but was probably overruled at a higher level; therefore, the expressed desire for cooperation appears genuine and working level officials enjoyed the direct interaction with a U.S. prosecutor. Likewise, poloff had not had three meetings at the Office of the General Prosecutor in his two-year tour but in this case visited on three consecutive days, which is an indication of the importance the Government of Uzbekistan attaches to this issue. Interestingly, the office space at the Office of the General Prosecutor, the FIU, and the Central Bank is very modern and impressive compared with the spartan facilities at less powerful ministries.

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Egmont Group

¶15. (C) When the DOJ expert asked about membership in the Egmont Group (a group of 106 Financial Intelligence Units which cooperate on money laundering issues), the officials sighed audibly before Tadjibayev answered that Uzbekistan previously could not qualify for membership in the Egmont group "due to the Presidential decree" that suspended key portions of the earlier money laundering legislation. Now that the law will be in place, Tadjibayev said that Uzbekistan hopes to join in the near future. Thus far, no nation is sponsoring Uzbekistan in this process.

Comment:

¶16. (C) Despite promises in late 2008 to accept technical assistance from the U.S., it is impossible not to conclude that Uzbekistan deliberately kept the U.S. at bay during the possible window for influencing the draft law. Meanwhile, it did accept technical assistance from the IMF/World Bank/UNODC, which it probably concluded would hit them with kid gloves compared to the U.S. and make it easier to be selective about the material that ultimately made its way into the draft. The IMF/World Bank/UNODC representatives will likely present a positive report to the FATF about Uzbekistan's progress since the last FATF plenary, which will fit with Uzbekistan's propensity to do "just enough, just in time." It is frustrating in the short-term that the U.S. was shut out of the technical assistance process, but the opportunities for continued engagement on the development of by-laws are meaningful and can contribute to our overall efforts to increase contact with an important ministry.

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